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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/434,832	11/05/1999	ROBERT B. FOSTER JR.	47571-P004D1	4419

7590 08/20/2004
DUANE MORRIS
1667 K STREET N.W.,
SUITE 700
WASHINGTON, DC 20006

EXAMINER

YAO, KWANG BIN

ART UNIT	PAPER NUMBER
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2667

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DATE MAILED: 08/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/434,832

Applicant(s)

FOSTER ET AL.

Examiner

Kwang B. Yao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-90 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-90 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-90 have been considered but are moot in view of the new ground(s) of restriction.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-21, drawn to a communication hub, classified in class 370, subclass 328.
 - II. Claims 22-37, drawn to an adaptive TDMA method, classified in class 370, subclass 347.
 - III. Claims 38-62, 82-90, drawn to a point-to-multipoint adaptive TDD system, classified in class 370, subclass 280.
 - IV. Claims 63-72, drawn to a TDD system, wherein the data density with the frame is dynamically variable, classified in class 370, subclass 465.
 - V. Claims 73-75, drawn to a system for assigning frequency bandwidth, classified in class 370, subclass 468.
 - VI. Claims 76-80, drawn to a system of a modem selectively connected to transceiver/directional antenna combination, classified in class 455, subclass 277.1.
 - VII. Claim 81, drawn to a system of adding auxiliary node, classified in class 455, subclass 462.

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The inventions are distinct, each from the other because of the following reasons:

3. Inventions I, II, III, IV, V, VI, and VII are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination in Invention I does not require the particulars of the subcombination in Invention II, III, IV, V, VI, VII for patentability. The subcombination has separate utility such as the follows: Invention II, III, IV, V, VI, VII are related as combination of a communication hub system as in Invention I. Invention II has separate utility of adaptively adjusting a portion of TDMA associated with the forward channel information and the reverse channel information. Invention III has separate utility of providing a CPU for determining the routing of bursty data and providing signals for synchronizing the periods of transmission and reception. Invention IV has separate utility of varying data density as a function of parameters consisting of a signal error rate, a signal to noise ratio, a signal to interference ratio, a signal power level, and a signal propagation delay. Invention V has separate utility of assigning bandwidth such that the frequency of communication between the hub and nodes is about 10 GHz and about 60 GHz, and the bandwidth of the communication between the hub and nodes is at least 10MHz, and the beam width of the hub antennas is wider than the beam width of the node antennas by a factor of at least eight. Invention VI has separate utility of selectively connect the modem to a plurality of transceiver/directional antenna combinations; Invention VII has separate utility of adding at least one auxiliary node within a first predetermined area.

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4. Because these inventions are distinct for the reasons given above and the search required for Groups II, III, IV, V, VI, VII are not required for Group I, restriction for examination purposes as indicated is proper.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

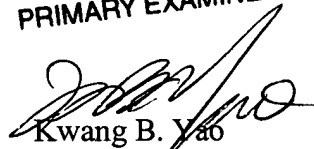
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwang B. Yao whose telephone number is 571-272-3182. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KWANG BIN YAO
PRIMARY EXAMINER



Kwang B. Yao
August 19, 2004